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UNCLAS SECTION 01 OF 02 PORT AU PRINCE 000526

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STATE FOR WHA/CAR
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WHA/EX PLEASE PASS USOAS

E.O. 12958: N/A
TAGS: [PREL](#) [PGOV](#) [KJUS](#) [KDEM](#) [KCRM](#) [SNAR](#) [PINR](#) [HA](#)
SUBJECT: JUSTICE MINISTER ANTICIPATES REFORM

REF: A. PORT AU PRINCE 370
[1](#)B. PORT AU PRINCE 89

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[1](#)1. This message is sensitive but unclassified -- please protect accordingly.

[1](#)2. (SBU) Summary: On March 8, Justice Minister Rene Magloire told Ambassador that his priorities are to reduce pre-trial detention times and to create effective task forces for serious crimes. His endeavors are being greatly limited by a lack of human resources. His three laws on judicial reform are at parliament for review. He anticipates that his preference for a Canadian-style judicial system will clash with those who prefer a U.S./Latin American system. By placing his best resources in "task forces" to handle cases of kidnapping, drug-trafficking, money-laundering and organized crime, the Minister foresees an end to impunity for such crimes in Haiti. Minister Magloire ''would not dare'' to vet prosecutors, judges or other ministry officials; and hopes that the Judicial Inspection Unit (JIU) included in his three laws (under the supervision of the Superior Council of Magistrates) will fulfill this need. None of his proposed changes will take effect without ratification from parliament, which could raise objections. Magloire concluded that Claudy Gassant's tenure as Chief Prosecutor had ended, though unofficially, because ''unfortunately'' Gassant holds the only position immune from the justice minister's authority. In closing, the Ambassador pledged USG support for the Minister's attempts at real and lasting justice reform. End Summary.

Three Laws of Judicial Reform
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[1](#)3. (SBU) The Ambassador stressed the importance of justice reform, particularly as they relate to international and domestic efforts to reform the police. The Minister told her that the executive had just presented the three laws on judicial reform (ref A) to parliament. (On March 13, President Rene Preval verbally presented the three laws, along with a host of others, to parliament.) As of this meeting, he had not met with parliament to discuss the three laws; however, he anticipates that parliamentarians will raise various objections, including the Minister's preference

for a common law system over Haiti's Napoleonic code (which, he pointed out, is no longer applied in France).

14. (SBU) Note: In a separate meeting, MINUSTAH's judicial section officer Denis Racicot told Poloff that he has been surprised to find lawmakers and civil society evenly split on the issue, instead of mostly against the new reforms, which the Minister anticipated. Magloire's concern was that critics would complain that the laws restrain the independence of the judiciary, but in fact, the corrupt and unresponsive reputation of the judicial system is such that even critics of the minister's proposal would prefer executive oversight, at least for now. Also, the President of the Senate, Joseph Lambert, told Polcouns with confidence that the laws on judicial reform will pass. Racicot still argues that the laws will face opposition, but thinks it will come from spoilers who benefit from the status quo, instead of those who would like to see judicial reform of a certain kind. End note.

Task Forces for Serious Crimes

15. (SBU) The Minister highlighted a front page news article about two kidnappers whom the court tried and condemned to prison for life on March 1. He said that the judge who condemned the kidnappers, Jean Carvesse, was part of the kidnapping task force made up of police officers, prosecutors and judges trained to handle kidnapping cases. He hopes to create more task forces to combat other serious crimes like drug trafficking, money laundering, and organized crime. As with the kidnapping case, to send a message of zero tolerance to Haiti's criminals, he expects other cases to be tried rapidly and end with a tough sentence. He recognized that money laundering in particular suffered from a lack of judicial results. The anti-money laundering unit in Haiti

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(known by its French acronym, UCREF) has made arrests and presented valid cases, however the criminals have yet to be tried and sentenced. The minister also referred to the distant possibility of specialized courts, but this would require legal modifications to Haiti's criminal code, which could take years. Instead, the task forces offer an immediate judicial response to Haiti's most serious and complicated crimes. (Note: The Minister's request for funding for the anti-drug trafficking task force is reported septel. End note.)

Vetting: I Would Not Dare

16. (SBU) Minister Magloire offered a softer version of vetting, or auditing, which would be carried out by the JIU under the oversight of an independent Superior Council of Magistrates (the topic of one of the three laws). He contrasted this plan with former Interim Justice Minister Henri Dorleans' proposal to task the supreme court with judicial inspection. The Minister then returned to the subject of task forces: this is a more realistic approach than all-out vetting because the task forces would comprise of well-trained and incorruptible police, prosecutors, and judges. This would make it much more difficult for the corrupt judges to release criminals or accept bribes without notice. (Note: Often the judges release people under the pretext that the police and prosecutors provide insufficient evidence and no official report on the case. End note.)

I Cannot Fire Claudy Gassant

17. (SBU) The Minister explained to the Ambassador that it is unfortunate that the Chief Prosecutor of Port-au-Prince, Claudy Gassant, is the only person he cannot fire. Magloire mentioned a letter that Gassant passed to the Ministry demanding Magloire initiate an independent investigation of

Gassant's claim that assailants broke into his office (ref B). Magloire failed to satisfy, or even respond, to this ultimatum. Thus, Gassant has not returned to his position and Magloire has appointed Fan Fan Guerilus Chief Prosecutor ad interim. The minister reported that Guerilus will remain in the position until he decides to appoint someone else (dismissing any chance that Gassant will be back during his tenure). He explained that Gassant did not want to work as part of a team, and assured the Ambassador that Gassant fabricated the claim that assailants broke into his office. (Note: UN police officials recently conducted an investigation and reported in the local press that the claim appeared legitimate. End note.)

Comment

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18. (SBU) The Minister appeared discouraged when discussing the challenges ahead of him, particularly the potential confrontations with parliament. As Racicot and others who work with the justice sector here are quick to point out, the Minister is very cooperative and easy-going. However, he lacks confidence in himself, particularly when faced with opposition from his own government, as reflected by his timidity in tackling the issue of judicial vetting directly. Also, he is swamped. One of Magloire's first comments to the Ambassador was that he suffered from a lack of human resources. Racicot said that MINUSTAH helps the minister take care of administrative duties because the ministry lacks a competent staff. On the positive side, Magloire is universally understood to be incorruptible and free of any charges or suspicion of corruption making him one of the few within the justice ministry about whom this claim can be made. SANDERSON